

1 KINDRA DENEAU (State Bar No. 024156)
2 7135 East Camelback Rd., Suite 230
3 Scottsdale, Arizona 85251
4 Telephone: (480) 306-5977
5 Facsimile: (602) 626-3504

6 *Of Counsel to*
7 Lemberg & Associates LLC
8 A Connecticut Law Firm
9 1100 Summer Street
10 Stamford, CT 06905
11 Telephone: (203) 653-2250
12 Facsimile: (203) 653-3424

13 Attorneys for Plaintiff,
14 Cheryl Pelletier

15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE DISTRICT OF ARIZONA

17
18 Cheryl Pelletier,

19 Plaintiff,

20 vs.

21
22 Accounts Receivable Management, Inc.;
23 and DOES 1-10, inclusive,

24 Defendants.
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27
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Case No.:

COMPLAINT

1 For this Complaint, the Plaintiff, Cheryl Pelletier, by undersigned counsel,
2 states as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to
8 collect a consumer debt.
9

10 2. Original and supplemental jurisdiction exists pursuant to 28 U.S.C. §§ 1331,
11 1367.
12

13 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
14 Defendants transact business here and a substantial portion of the acts giving rise to
15 this action occurred here.
16

17 **PARTIES**

18 4. The Plaintiff, Cheryl Pelletier (hereafter "Plaintiff"), is an adult individual
19 residing in Surprise, Arizona, and is a "consumer" as the term is defined by 15 U.S.C.
20 § 1692a(3).
21

22 5. The Defendant, Accounts Receivable Management, Inc. (hereafter "Accounts"),
23 is a company with an address of 155 Mid Atlantic Parkway, Thorofare, New Jersey
24 08086, operating as a collection agency, and is a "debt collector" as the term is
25 defined by 15 U.S.C. § 1692a(6).
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1 6. Does 1-10 (the “Collectors”) are individual collectors employed by Accounts
2 and whose identities are currently unknown to the Plaintiff. One or more of the
3 Collectors may be joined as parties once their identities are disclosed through
4 discovery.
5

6 7. Accounts at all times acted by and through one or more of the Collectors.
7

8 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

9 **A. The Debt**

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11 8. The Plaintiff incurred a financial obligation (the “Debt”) to an original creditor
12 (the “Creditor”).
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14 9. The Debt arose from services provided by the Creditor which were primarily
15 for family, personal or household purposes and which meets the definition of a “debt”
16 under 15 U.S.C. § 1692a(5).
17

18 10. The Debt was purchased, assigned or transferred to Accounts for collection, or
19 Accounts was employed by the Creditor to collect the Debt.
20

21 11. The Defendants attempted to collect the Debt and, as such, engaged in
22 “communications” as defined in 15 U.S.C. § 1692a(2).
23

24 **B. Accounts Engages in Harassment and Abusive Tactics**

25
26 12. Accounts has placed as many as five (5) calls a day to Plaintiff’s cellular
27 telephone in an attempt to collect the Debt.
28

1 13. Accounts has placed as many as five (5) calls a day to Plaintiff's business
2 telephone in an attempt to collect the Debt.

3
4 14. Accounts has contacted Plaintiff's mother, a third party, on more than occasion.

5 15. Accounts has discussed the Debt with Plaintiff's mother.

6 16. Plaintiff does not speak with her mother and Accounts' phone calls to
7 Plaintiff's mother have negatively affected Plaintiff and her mother's relationship.
8

9
10 **C. Plaintiff Suffered Actual Damages**

11 17. The Plaintiff has suffered and continues to suffer actual damages as a result of
12 the Defendants' unlawful conduct.

13
14 18. As a direct consequence of the Defendants' acts, practices and conduct, the
15 Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional
16 distress, fear, frustration and embarrassment.
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18 19. The Defendants' conduct was so outrageous in character, and so extreme in
19 degree, as to go beyond all possible bounds of decency, and to be regarded as
20 atrocious, and utterly intolerable in a civilized community.
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COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692, et seq.

20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The Defendants contacted third parties and failed to identify themselves and further failed to confirm or correct location information, in violation of 15 U.S.C. § 1692b(1).

22. The Defendants informed third parties of the nature of Plaintiff's debt and stated that the Plaintiff owed a debt, in violation of 15 U.S.C. § 1692b(2).

23. The Defendants contacted third parties in regards to the Plaintiff's debt on numerous occasions, without being asked to do so, in violation of 15 U.S.C. § 1692b(3).

24. The Defendants communicated with individuals other than the Plaintiff, the Plaintiff's attorney, or a credit bureau, in violation of 15 U.S.C. § 1692c(b).

25. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C. § 1692d(5).

26. The Defendants employed false and deceptive means to collect a debt, in violation of 15 U.S.C. § 1692e(10).

1 27. The foregoing acts and omissions of the Defendants constitute numerous and
2 multiple violations of the FDCPA, including every one of the above-cited provisions.

3
4 28. The Plaintiff is entitled to damages as a result of the Defendants' violations.

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6 **COUNT II**

7 **INVASION OF PRIVACY BY INTRUSION UPON SECLUSION**

8 29. The Plaintiff incorporates by reference all of the above paragraphs of this
9 Complaint as though fully stated herein.

10 30. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as,
11 "One who intentionally intrudes...upon the solitude or seclusion of another, or his
12 private affairs or concerns, is subject to liability to the other for invasion of privacy, if
13 the intrusion would be highly offensive to a reasonable person."
14

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16 31. Arizona further recognizes the Plaintiff's right to be free from invasions of
17 privacy, thus Defendant violated Arizona state law.

18
19 32. The Defendant intentionally intruded upon Plaintiff's right to privacy by
20 continually harassing the Plaintiff with excessive phone calls and by communicating
21 with third parties about the Debt.

22
23 33. The telephone calls made by Defendants to the Plaintiff were so persistent and
24 repeated with such frequency as to be considered, "hounding the plaintiff," and, "a
25 substantial burden to her existence," thus satisfying the Restatement of Torts, Second,
26 § 652(b) requirement for an invasion of privacy.
27

1 34. The conduct of the Defendants in engaging in the illegal collection activities
2 resulted in multiple invasions of privacy in such a way as would be considered highly
3 offensive to a reasonable person.
4

5 35. As a result of the intrusions and invasions, the Plaintiff is entitled to actual
6 damages in an amount to be determined at trial from Defendants.
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8 36. All acts of Defendants and its agents were committed with malice, intent,
9 wantonness, and recklessness, and as such, Defendants are subject to punitive
10 damages.
11

12 **COUNT III**

13 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

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15 37. The Plaintiff incorporates by reference all of the above paragraphs of this
16 Complaint as though fully set forth herein at length.

17 38. The acts, practices and conduct engaged in by the Defendants vis-à-vis the
18 Plaintiff was so outrageous in character, and so extreme in degree, as to go beyond all
19 possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in
20 a civilized community.
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23 39. The foregoing conduct constitutes the tort of intentional infliction of emotional
24 distress under the laws of the State of Arizona.
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40. As a result of the Defendants' intentional infliction of emotional distress, the Plaintiff is entitled to actual damages in an amount to be determined at trial from Defendants.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;

B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against the Defendants;

C. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendants;

D. Actual damages from the Defendants for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial for the Plaintiff;

E. Punitive damages;

F. For Plaintiff's statutory costs in relation to Arizona claim(s) pursuant to A.R.S. § 12-341; and

1 G. Such other and further relief as may be just and proper.
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3 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
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7 DATED: December 16, 2010

KINDRA DENEAU

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10 By: /s/ Kindra Deneau
11 Kindra Deneau

12 Attorney for Plaintiff
13 Cheryl Pelletier
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